

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
HOISTING ENGINEERS EXAMINING BOARD
TUESDAY, DECEMBER 14, 2004
10:00 A.M.**

In attendance: David Rodrigues

David Burnham

Ellery Wood

Benjamin Anthony

John Shaw

David Rodrigues, Chairperson, called the meeting to order at 10:00 a.m. There is a quorum. The only member not present today is Kathy Serrecchia.

The first order of business is acceptance of the minutes of the previous meeting, held on Tuesday, November 9, 2004. Mr. Rodrigues asked if everyone had an opportunity to review the minutes, and they had. Mr. Burnham made a motion to accept the minutes as submitted. Ellery Wood seconded the motion. All members voted in favor.

The next item on the agenda is appeal hearings. There is one (1) appeal hearing on the agenda, for which there is a court reporter.

Mr. Rodrigues turned the Chair of this meeting over to Mr. Burnham, and recused himself from voting on the above hearing since he was the investigator of this violation.

The appeal hearing on the agenda pertains to The City of Woonsocket. Mr. Michael F. Debrousse and Mr. Michael DelRossi were in attendance on behalf of the City of Woonsocket. Mr. Debrousse, Mr. DelRossi and Mr. Rodrigues were all sworn in by the court reporter.

Mr. Burnham explained the Board's proceedings to Mr. Debrousse and Mr. DelRossi.

Mr. Rodrigues read the violation. On September 23, 2004 the City of Woonsocket allowed an employee, Mr. Alexander B. Souza, of its sub-contractor, Great Meadow Farms, to operate a hydraulic excavator (accident resulting) at the CVS Distribution Center (city property in rear of building), 400 Founders Avenue, Woonsocket, RI without a valid RI Hoisting License as required by RIGL 28-26-5. Mr. Rodrigues was notified about this accident, but had also read an article about it in Section C of the Providence Journal dated September 24, 2004. Mr. Souza does not possess a valid Rhode Island Hoisting Engineer's license. The City of Woonsocket was issued a fine of \$1,150. The sub-contractor, Great Meadow Farms, paid their fine. In addition, Mr. Rodrigues spoke to Mr. Dan McHugh of Great Meadow Farms who informed him that Mr. Souza's fine had

been mailed out last week.

On September 24, 2004 when Mr. Rodrigues made his initial investigation Mr. Travis Sumner was on the job site, and was questioned. Mr. Sumner informed Mr. Rodrigues that he had been operating equipment on this day. Upon further questioning Mr. Sumner admitted that he did not have a license, however, Mr. Rodrigues did not witness him operating the equipment.

Mr. Debrousse stated that he was told by Mr. Sumner that he had a valid license in Rhode Island and could operate the machinery. A couple of days went by before he admitted that he did not have a valid Rhode Island hoisting license, and at that time, the job site was shut down until a licensed operator could be hired.

Mr. Debrousse stated that he was going to ask Mr. Censi of the City of Woonsocket what the City's responsibility is when they have a signed contract with a sub-contractor that requires all laws and regulations are adhered to on the job site.

Mr. Ellery Wood made a motion that based on the testimony provided, there is a finding of fact that there was a violation. Since this is a first offense, a recommendation should be made to the Director to suspend the \$1,150 fine for a 12-month period pending any further violations. Mr. Benjamin Anthony seconded the motion. All members

voted in favor.

Mr. Debrousse and Mr. DelRossi were informed that in addition to getting a contractor's license and insurance for the City of Woonsocket, they should be checking the physical license of each person who will be operating equipment on their job sites. Mr. Ron D'Ambruso also informed these individuals of the need for OSHA 10-hour cards on prevailing wage projects, as well as the requirement for keeping certified copies of payroll. Mr. D'Ambruso also suggested that more detailed language be included in their contracts to spell out the requirement for licensing and OSHA 10-hour certification.

This concluded the hearings. Mr. Burnham turned the Chair of the meeting back over to Mr. Rodrigues.

Under any other business before the Board, Mr. Burnham asked Mr. Rodrigues if he had received any information from Massachusetts or Connecticut regarding learner's permits, and Mr. Rodrigues informed him that he still had not received a return call.

Mr. D'Ambruso explained the obstacles with instituting a learner's permit because an apprenticeship program has already been established with the State Apprenticeship Council through the Operating Engineers, for which there is a 5 to 1 ratio. If the state were to institute a learner's permit it would have to mirror that

apprenticeship program, since all trades follow the same criteria for apprenticeships that are approved by the State Apprenticeship Council. Mr. D'Ambruoso also informed the Board that establishing a learner's permit would hinder the industry by allowing people to just come into the state, get a learner's permit and work without the proper training that is needed to possess a valid Rhode Island hoisting engineer's license. Mr. D'Ambruoso asked Mr. Burnham if the Associated Builders and Contractors (ABC) could set up a program for the state that would mimic the operating engineers program. Mr. Burnham stated that he has dug into this for many years. ABC's national association already has a program, which Mr. Burnham has seen and read. If this came about, the ratio of 5 to 1 would have to change.

There was no further business before the Board. Mr. Wood made a motion to adjourn at 10:35 a.m. Mr. Anthony seconded the motion. All members voted in favor.

The next meeting of the Board of Examiners of Hoisting Engineers is scheduled for Tuesday, January 11, 2005 at 10:00 a.m. in Building #70 of the Department of Labor & Training, second floor conference room, 1511 Pontiac Avenue, Cranston, RI 02920.